

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MIGUEL GONZALEZ-SANTIAGO,

Petitioner,

-against-

9:20-CV-1314 (LEK/TWD)

STANLEY LOVETT,

Respondent.

MEMORANDUM-DECISION AND ORDER

I. INTRODUCTION

Petitioner Miguel Gonzalez-Santiago seeks federal habeas relief pursuant to 28 U.S.C. § 2241. Dkt. No. 1 (“Petition”). On April 28, 2023, the Honorable Thérèse Wiley Dancks, United States Magistrate Judge, issued a Report-Recommendation and Order recommending that the Petition be denied and dismissed and that no certificate of appealability be issued. Dkt. No. 10 (“Report and Recommendation”).

No party has filed objections to the Report and Recommendation. For the reasons that follow, the Court adopts the Report and Recommendation in its entirety.

II. BACKGROUND

The Court assumes familiarity with Judge Dancks’s Report and Recommendation, as well as with Plaintiff’s factual allegations as detailed therein. See R. & R. at 2–5.

III. STANDARD OF REVIEW

“Within fourteen days after being served with a copy [of the Magistrate Judge’s report and recommendation], any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.” 28 U.S.C. § 636(b)(1)(C); see also L.R. 72.1. However, if no objections are made, a district court need only review a report and

recommendation for clear error. See DiPilato v. 7-Eleven, Inc., 662 F. Supp. 2d 333, 339 (S.D.N.Y. 2009) (“The district court may adopt those portions of a report and recommendation to which no timely objections have been made, provided no clear error is apparent from the face of the record.”). Clear error “is present when upon review of the entire record, the court is left with the definite and firm conviction that a mistake has been committed.” Rivera v. Fed. Bureau of Prisons, 368 F. Supp. 3d 741, 744 (S.D.N.Y. 2019) (cleaned up). Additionally, a district court will ordinarily refuse to consider an argument that could have been, but was not, presented to the magistrate judge in the first instance. See Hubbard v. Kelley, 752 F. Supp. 2d 311, 312–13 (W.D.N.Y. 2009) (“In this circuit, it is established law that a district judge will not consider new arguments raised in objections to a magistrate judge’s report and recommendation that could have been raised before the magistrate but were not.” (internal quotation marks omitted)). Upon review, a court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C).

IV. DISCUSSION

No party objected to the Report and Recommendation “[w]ithin fourteen days after being served with a copy” of it. 28 U.S.C. § 636(b)(1)(C). Accordingly, the Court reviews the Report and Recommendation for clear error. Having found none, the Court approves and adopts the Report and Recommendation in its entirety.

V. CONCLUSION

Accordingly, it is hereby:

ORDERED, that the Report and Recommendation (Dkt. No. 10) is **APPROVED and ADOPTED in its entirety**; and it is further

ORDERED, that the Petition (Dkt. No. 1) is **DENIED and DISMISSED**; and it is further

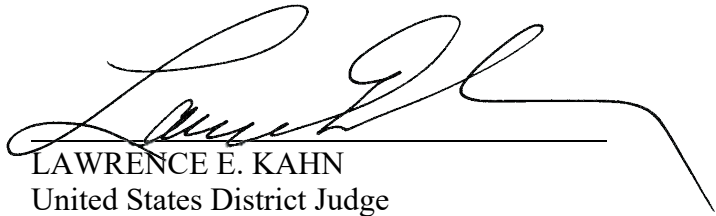
ORDERED, that no certificate of appealability be issued, see 28 U.S.C. § 2253(c)(1);
and it is further

ORDERED, that the Clerk close this action; and it is further

ORDERED, that the Clerk serve a copy of this Memorandum-Decision and Order on all
parties in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: January 22, 2024
Albany, New York



LAWRENCE E. KAHN
United States District Judge